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The ‘No Child Left Behind Act’: Neither Unfunded Nor a Mandate

Introduction

The No Child Left Behind Act (P.L. 107-110) – President Bush’s initiative to press for much-needed reforms in the nation’s elementary and secondary education practices – was enacted with overwhelming bipartisan support in both the Senate and the House of Representatives. In fact, both houses of Congress passed it with 90-percent margins, and the President signed it into law in December 2001.¹ However, in recent months, bipartisan support for this historic law has given way to criticism that Congress has underfunded this law, and that the law constitutes an “unfunded mandate.”

On March 10, 2004, at the National Conference of State Legislatures’ “Leader to Leader” meeting, representatives criticized President Bush and Congress for imposing \$29 billion in “unfunded mandates” on the states. The group, which represents the interests of state legislatures, alleges that three federal laws are responsible for the vast majority of this shortfall on the states, attributing a large portion to the No Child Left Behind Act.²

In looking at this charge, it is important to understand the terminology that is utilized. Arguably, both the state legislature advocacy group and supporters of the President’s education law would generally agree that an “unfunded mandate” refers to a federal law that does not provide sufficient federal funding to the state (or other responsible party) to carry out the law’s mandates. What is likely at issue here is what constitutes a mandate.

The National Conference of State Legislatures claims that the No Child Left Behind Act will impose \$9.6 billion in unfunded mandates on the states in the 2004 fiscal year. Additionally, the Conference argues that the federal law governing intergovernmental mandates has several inherent problems because it does not apply to all legislation considered by Congress. Specifically, the group charges that it does not apply to appropriations bills, or when a bill is amended on the floor or changed in a House-Senate conference.³ This paper will demonstrate that

¹ On December 13, 2001, the House voted in favor of the No Child Left Behind Act by a vote of 381 to 41. On December 18, the Senate voted in favor of the NCLB by a vote of 87 to 10.

² The state legislatures group claims that the following laws have unfunded mandates: the No Child Left Behind Act—\$10 billion; the Individuals with Disabilities Education Act—\$10 billion; and Medicaid—\$6 billion. The remaining \$3 billion dollars are from an assortment of other laws.

³ David Broder, *President’s Unfunded Mandates Criticized*, Washington Post, P. A-25, March 11, 2004 (available at www.washingtonpost.com).

the education-reform law, both as a matter of law and fact, is being falsely characterized as an “unfunded mandate,” and it is sufficiently funded.

‘Unfunded Mandate’ Defined by Law

In 1994, Congressional Republicans campaigned for reelection on a “Contract With America,” which included a promise to address the longstanding problem faced by state and local governments (and the private sector) of Congress passing legislation that imposed financial burdens on them, unaccompanied by sufficient federal funding. The Republican-dominated 104th Congress made good on its promise when the Unfunded Mandates Reform Act (P.L. 104-4) was enacted into law.

While this law has not completely eliminated the imposition of unfunded mandates, it has served as a deterrent and, at the very least, it has made the issue of federal mandates a consideration on every piece of legislation debated by Congress.⁴ The law defines a federal intergovernmental mandate⁵ as “any provision in legislation, statute, or regulation that would impose an enforceable duty upon any state, local, or tribal governments.”⁶ Under that same law, a mandate is considered to be unfunded when legislation authorizing the mandate provides: 1) no new budget authority to incur the resulting financial obligations; or 2) does not authorize appropriations.⁷ In the case of authorized appropriations, the mandate is considered unfunded unless the actual appropriations level covers the actual mandated cost level.⁸

The law provides the nonpartisan Congressional Budget Office (CBO) with the responsibility of tracking unfunded mandates (as defined by the law). CBO has examined every federal law enacted since 1997. Initially, it prepares “mandate statements” for bills once they are approved by authorizing committees, and again if the bill is enacted into law. Those statements must note if any federal mandates contained in the bill exceed a threshold of \$50 million (in 1996 dollars) — a figure that is adjusted for inflation each year.⁹ Of the 4,000 bills that CBO reviewed between 1996 and 2002,¹⁰ only 42 – or 1 percent – contained unfunded mandates that exceeded the law’s dollar threshold.¹¹

Yet, what is more important than how many bills reported from committee contained an unfunded mandate, is how many unfunded mandates were actually enacted into law. Since 1996, *CBO has identified only three federal laws that contain unfunded mandates in excess of the dollar threshold:* 1) a 1996 increase in the minimum wage;¹² 2) a 1997 reduction in federal funding for administering the Food Stamp program; and 3) the Medicare Prescription Drug, Improvement,

⁴ CBO numbers below illustrate the deterrent effect. Moreover, since 1995, neither Democrat nor Republican Congresses have amended it.

⁵ The term “federal intergovernmental mandate” is more commonly referred to as an “unfunded mandate.”

⁶ P.L. 104-4, the Unfunded Mandates Reform Act of 1995.

⁷ Keith Bea and Richard Beth, *Unfunded Mandates Reform Act Summarized*, Congressional Research Service Report for Congress, February 9, 1999 (citing P.L. 104-4).

⁸ Keith Bea and Richard Beth.

⁹ In FY04, inflation increases that level to \$60 million.

¹⁰ Douglas Holtz-Eakin, “CBO’s Activities Under the Unfunded Mandates Reform Act,” Congressional Budget Office in testimony before the House Subcommittee on Technology and House Rules, July 16, 2003 (available at www.cbo.gov).

¹¹ Holtz-Eakin. Regardless of the \$50 million threshold, only 465 bills, or 11 percent, contained mandates of any level.

¹² The Unfunded Mandates Reform Act also monitors private sector mandates, which would include an increase in the minimum wage. Notably, such an increase would also involve intergovernmental mandates.

and Modernization Act of 2003.¹³ According to the CBO, the No Child Left Behind Act does not meet the definition of an “unfunded mandate,” because both the “federal assistance [under the act] is substantial” and because it is not a mandate.¹⁴

Contrary to the state legislature advocacy group’s claim, the mandates-reform law does in fact apply to amendments and conference reports.¹⁵ The mandates reform law provides that amendments that increase a bill’s unfunded mandate in excess of the dollar threshold are subject to a budgetary point of order.¹⁶ Similarly, a conference report that returns to each chamber with an unfunded mandate in excess of the dollar threshold is subject to the same point of order. These provisions were designed to make it harder for Congress to pass unfunded mandates.

With regard to the advocacy group’s criticism that appropriations bills are not counted, this is largely a technical argument. Although appropriations bills are exempt from being accounted for under the mandates-reform law, in practice, an appropriations bill would have to include authorizing language for it to include a mandate. When such language is included in an appropriations bill, it can be deemed “authorizing on an appropriations bill,” and, consequently, that bill then is subject to a point of order under Senate rules.¹⁷

No Child Left Behind Act Allows States to Opt Out

It is important to understand the distinction between “mandates” and voluntary actions under the mandates-reform law: the law provides that *no mandate* arises when the federal government merely conditions federal assistance on the execution of certain duties, (i.e., when the decision to participate in a federal program is voluntary). By definition, voluntary programs are not mandates to the states. Instead, voluntary programs are proposals by the federal government of how states may perform certain functions. If a state agrees with the proposal, the federal government assists with the cost of implementing it. If a state disagrees with the proposal, it can perform and fund the functions independent of the federal government, thus declining federal assistance.¹⁸ The No Child Left Behind Act is no exception to this; states are free to opt out of the law’s self-regulating requirements.¹⁹

In keeping with the spirit of the 1995 mandate-reform law, the No Child Left Behind Act contains this provision:

Nothing in this Act shall be construed to authorize an officer or employee of the Federal Government to . . . mandate a State or any subdivision thereof to spend any funds or incur any costs not paid for under this Act. . . . Notwithstanding any other provision of Federal law, no State shall be required to have academic

¹³ Holtz-Eakin; Douglas Holtz-Eakin, “A Review of CBO’s Activities in 2003 Under the Unfunded Mandates Reform Act,” Congressional Budget Office, April 2004.

¹⁴ Holtz-Eakin; Douglas Holtz-Eakin, “A Review of CBO’s Activities in 2003 Under the Unfunded Mandates Reform Act,” Congressional Budget Office, April 2004.

¹⁵ P.L. 104-4, Sec. 425 (a)(2) reads: “In General—It shall not be in order in the Senate or the House of Representatives to consider—any bill, joint resolution, **amendment**, motion, **conference report** that would increase the direct cost of Federal intergovernmental mandates by an amount that causes the thresholds specified in section 424(a)(1) to be exceeded.”

¹⁶ The Unfunded Mandates Reform Act amended the Congressional Budget Act of 1974 to provide a point of order for legislation that imposes an unfunded mandate on states in excess of \$50 million.

¹⁷ Senate Rule XVI(2).

¹⁸ Brian Riedl, *What Unfunded Mandates? CBO Study Reveals Washington Not at Fault for the State Budget Crises*, The Heritage Foundation, June 18, 2003 (available at www.Heritage.org).

¹⁹ Of course, a state would also be opting out of federal funding.

content or student academic achievement standards approved or certified by the Federal Government, in order to receive assistance under this Act.²⁰

This clause highlights the voluntary nature of the education reforms, and the flexibility states are provided in implementing the law.²¹

The significance of the voluntary nature of this law can be seen when compared with a true federal mandate, such as the Help America Vote Act (P.L. 107-252).²² That law set mandatory, national voting standards; unlike the education-reform law, the provisions of the voting law are not voluntary.²³ In fact, the voting act establishes two enforcement processes to ensure implementation: 1) the U.S. Attorney General may bring a civil action to institute the law's requirements; and 2) as a condition for the receipt of funds, states must establish administrative procedures to handle complaints from individuals.²⁴ Therefore, under a true mandate, a state could be subject to legal liability for not instituting the mandates, while under the No Child Left Behind Act, a state may simply opt out of the law without legal liability.

Education Funding Background

The education of our nation's schoolchildren has been, and continues to be, primarily a state and local responsibility.²⁵ For the 2003-2004 school year, state and local governments will fund roughly 90 percent of the estimated \$852 billion being spent nationally on all education.²⁶ Under this Department of Education estimate, the federal government will contribute roughly 10 percent of those expenditures.²⁷

President Bush has stated the No Child Left Behind Act's objective is "to challenge the soft bigotry of low expectations and raise the standards for every single child."²⁸ The law pursues this objective by promising flexibility in exchange for greater accountability.²⁹ President Bush labeled the bill "historic," noting that "for the first time, the federal government is spending more money, and now asking for results. ... In the past it used to be we would send a check and hope for something to happen. ... Now the federal government is sending checks, at record amounts," but the states must be able to illustrate measurable progress.³⁰

²⁰ P.L. 107-110, Sec. 9527, The No Child Left Behind Act of 2001.

²¹ Nevertheless, the National Education Association (NEA) is relying on this clause in considering a lawsuit challenging the No Child Left Behind Act as an unfunded mandate. Because compliance with the law is voluntary, NEA is likely to have a difficult time proving its case.

²² The voting act serves as a good example, because similar to education, voting standards historically have been implemented at the local level.

²³ The Help America Vote Act, P.L. 107-252, Sec. 401-402.

²⁴ Kevin Coleman and Eric Fisher, *Overview and Implementation of the Help America Vote Act*, Congressional Research Service, March 25, 2004.

²⁵ The Federal Role in Education (available at www.ed.gov/about/overview/fed/role.html?src=ln).

²⁶ The Federal Role in Education (available at www.ed.gov/about/overview/fed/role.html?src=ln).

²⁷ Of this 10 percent, the Department of Education contributes 6 percent, with other federal agencies funding the remaining 4 percent through programs such as the Department of Health and Human Services' Head Start Program and the Department of Agriculture's School Lunch Program. The Federal Role in Education (available at www.ed.gov/about/overview/fed/role.html?src=ln).

²⁸ President George W. Bush, "Remarks by the President in Conversation on the Second Anniversary of the No Child Left Behind Act," West View Elementary School, Knoxville, Tennessee, January 8, 2004 (available at www.whitehouse.gov/news/releases/2004/01/print/20040108-3.html).

²⁹ Meave O'Marah, Kenneth Klau, and Theodor Rebarber, *NCLB Under the Microscope: A Cost Analysis of the No Child Left Behind Act of 2001 on State and Local Education Agencies*, Accountability Works, January 2004 (available at www.educationleaders.org).

³⁰ President George W. Bush. According to the President, since 2000 these accountability measures have led to a nine-point increase nationally in math scores among fourth graders.

Funding Below Authorized Levels Does Not Equate to an Unfunded Mandate

Despite an absence of studies on the issue, most congressional experts would be hard pressed to argue the notion that authorization levels are generally met in the appropriations process. Appropriators are not obligated to use the authorization to determine suggested funding levels, and neither is Congress obligated to pass the authorized amount. In practice, the authorization level provides a funding ceiling, and funding under the ceiling level does not necessarily mean inadequate funding.

Nevertheless, a Democratic Congressional study paints the education-reform law as underfunded because appropriations are below the full authorization level.³¹ Yet, the last time the Elementary and Secondary Education Act was reauthorized prior to the 2001 act was in 1994, the same year that a Democrat majority in Congress and a Democrat President appropriated funding at a level that was billions of dollars below the newly authorized level. Specifically, the total authorization level for FY 1995 (as contained in P.L. 103-382, the “Improving America’s School Act”) was \$12.6 billion, compared to \$9.9 billion appropriated—amounting to a \$2.7 billion difference.³²

Furthermore, it is relevant to note that an increase in spending does not always result in an increase in achievement. An Education Next study, co-authored by the chairman of the Massachusetts Board of Education, articulates this very point: “Most research finds . . . no consistent causal relationship between expenditures and achievement.”³³ Note, for example, that despite the billions of dollars in increased appropriations between 1975 and 2000, the National Assessment of Educational Progress reading scores for nine-year-olds stayed the same.³⁴

Faulty Assumptions Used to Label Education Law an Unfunded Mandate

Since the enactment of the No Child Left Behind Act, a number of government, political, and private entities have conducted studies on the law’s fiscal impact on the states. Unfortunately, according to the Accountability Works organization, a nationally recognized nonpartisan education policy organization dedicated to accountability, a majority of the fiscal-impact studies possess “significant flaws or limitations that lead to questionable conclusions.”³⁵

For example, one study often cited to illustrate the “unfunded mandates” argument was conducted in 2002 by the New Hampshire School Administrators Association (NHSAA), which looked at its state’s education expenditures.³⁶ Yet, that study failed to acknowledge the No Child

³¹ O’Marah, Klau, and Rebarber (*citing* Office of Democratic Leader Pelosi and Democratic Staff of the House Appropriations Committee, *GOP Funding Bill Shortchanges America’s Children by Underfunding Key Education Priorities* (available at www.house.gov/appropriations_democrats/ChildrenShortchange.pdf)).

³² James B. Stedman, CRS Report for Congress: *Improving America’s School Act: An Overview of P.L. 103-382*, October 28, 1994.

³³ James Peyser and Robert Costrell, “Exploring the Costs of Accountability,” *Education Next: A Journal of Opinion and Research*, Spring 2004 (available at www.educationnext.org). Peyser and Costrell also note that the relationship between money and achievement can be more significant if funding starts at very low levels. “But over the range of spending commonly observed among school systems in the United States, the effect on student achievement is often swamped by how wisely the money is spent, by bureaucratic and contract rigidities, and by a host of important policies and decisions that have nothing at all to do with money.”

³⁴ U.S. Department of Education, “No Child Left Behind: A Parents Guide,” June 2003.

³⁵ O’Marah, Klau, and Rebarber. This Accountability Works conclusion is based on analysis of three studies conducted by: 1) The New Hampshire School Administrators Association, 2) the Democratic Congressional study, and 3) the General Accounting Office.

³⁶ *An Analysis of Cost Impact of ESEA—No Child Left Behind Act on New Hampshire*, New Hampshire School Administrators Association, November 19, 2002.

Left Behind Act's flexibility that allows almost all implementation decisions affecting state costs to be made at the state or local level. The NHSAA study makes dubious assumptions, such as its determination that, in order to meet the federal law's teacher-quality standards, the state had to implement an across-the-board pay increase for teachers.³⁷ Given all of the options available to ensure teacher quality, this was likely the most expensive option. Other (less expensive) options include: improved recruitment strategies; hiring bonuses; merit awards; or targeting increases in compensation or other incentives to address teacher-quality shortfalls.³⁸ Moreover, teacher pay raises are based on collective bargaining agreements, and remain independent of the No Child Left Behind Act.

Some studies have wrongly counted as new costs the expenditures that were already required under the predecessor authorizing legislation [P.L. 103-382]. If a cost was already in place prior to the enactment of the No Child Left Behind Act, it should not now be counted as a new compliance cost. Such faulty assumptions were used in a General Accounting Office study on the education-reform law.³⁹ For example, the predecessor law required assessments for math and reading two times between grades three through nine. Under the current law, annual assessments for math and reading are required for grades three through eight. Thus, while current law requires six annual assessments in reading and math, only four should count as new costs, since previous law already required two annual assessments.⁴⁰ Pointing out these faulty GAO assumptions, the previously cited study by the chairman of the Massachusetts Board of Education concludes that "much of what is alleged to be a [No Child Left Behind Act] mandate is either not new or actually results from states' actions."⁴¹

No Child Left Behind Act is Sufficiently Funded

Several studies and articles, including those conducted by the Accountability Works organization, the American Legislative Exchange Council, and the Josiah Bartlett Center for Public Policy (a non-profit, nonpartisan, independent think tank focused on state and local public policy issues based in New Hampshire), contend that funding for the Bush education law has been sufficient.⁴² Accountability Works, suggests these assumptions in analyzing the impact on the states of the No Child Left Behind Act:⁴³ 1) states must use the new law's funds to supplement, not replace, local expenditures; and 2) states, despite having choices in determining how to satisfy the law's requirements, need not always select the most expensive choice, since more expensive does not always mean better.⁴⁴

The studies cited above identify four areas in which the education law will have new fiscal impacts on state and local governments: 1) accountability (student assessments); 2) personnel (high-quality teachers and paraprofessionals); 3) information management (database system for

³⁷ O'Marah, Klau, and Rebarber (citing *An Analysis of Cost Impact of ESEA—No Child Left Behind Act on New Hampshire*, New Hampshire School Administrators Association, November 19, 2002).

³⁸ O'Marah, Klau, and Rebarber.

³⁹ United States General Accounting Office, *Title I: Characteristics of Test Will Influence Expenses* (available at www.gao.gov/highlights/d03389high.pdf).

⁴⁰ O'Marah, Klau, and Rebarber. Despite the fact that a number of states had not complied with the IASA by April 2002, it is unreasonable to attribute costs associated with complying with the IASA to the NCLB.

⁴¹ Peyser and Costrell.

⁴² The Accountability Works study and the Josiah Bartlett Center study share some of the same authors.

⁴³ O'Marah, Klau, and Rebarber.

⁴⁴ Although this paper makes the case that the NCLB is not an unfunded mandate, with respect to the last assumption, it should be noted that the UMRA requires states to mitigate any costs resulting from mandates. Thus, while states have a wide range of options in implementing the Acts requirements, it should not always be choosing the most expensive option.

disaggregation of student data); and 4) school improvement. The studies conducted by Accountability Works and the Josiah Bartlett Center both include calculations illustrating the education law sufficiently funds the new net costs in these four areas.

When viewing these four categories as new-cost categories, it is important to remember that before the education-reform law was enacted, a number of states had requirements in place that were as stringent as, or more stringent than, the federal law. For example, with respect to the testing mandate, five states had satisfied this requirement before the federal law went into effect.⁴⁵

As with reports that suggest that the federal government underfunds education, it should be acknowledged that, with respect to the numbers that follow, “any approach to calculating fiscal adequacy is bound to have limitations and flaws.”⁴⁶ Nevertheless, total fiscal year 2002 appropriations (the first year for funding under the new law) for elementary and secondary funding totaled \$26.5 billion.⁴⁷ These appropriations were a \$3.5 billion increase over the fiscal year 2001 level. At the same time, the Accountability Works study contends that new costs associated with the law totaled only \$1.9 billion (which would leave a surplus of \$1.5 billion).

The Accountability Works’ study concludes that there is “little solid evidence that the [No Child Left Behind Act] is insufficiently funded.”⁴⁸ In fact, the study states that, “for every year studied, the additional revenues provided exceed the state and local ‘hard costs’ resulting from specific . . . requirements. Nationally, the money left over for general school improvement and raising student achievement levels ranges from a low of approximately \$785 million in the 2004-05 school year to a high of approximately \$5 billion in the 2007-08 school year.”⁴⁹ The study concludes: “The charge that the [No Child Left Behind Act] is an ‘unfunded mandate’ is false; additionally, we find that the level of federal funding provided to support implementation of the [law’s] requirements has been – and is likely to remain – sufficient.”

The Josiah Bartlett Center study comes to a similar conclusion in examining the adequacy of funding in the context of New Hampshire; it concludes that for the 2002-2003 and 2003-2004 school years, net funding increases were equal to the law’s total expense.⁵⁰

The American Legislative Exchange Council, a bipartisan state policy group, has reached the same conclusion: “The President and Congress have not only fully funded these higher standards, but states are also empowered with a great deal of flexibility as they implement these goals.”⁵¹ The Education Next study goes one step further, concluding, “One might even argue that in some instances that federal spending growth has overshot the target.”⁵²

With respect to Title I grants to Local Education Agencies, (which is the largest component of the education law), President Bush has increased funding \$4.6 billion, or 52 percent, in four

⁴⁵ Peyser and Costrell (citing United States General Accounting Office). Thus, Peyser and Costrell do not assume the costs for states already in compliance. Conversely, the Accountability Works study still includes the cost of compliance for all states, including those already in compliance.

⁴⁶ Peyser and Costrell.

⁴⁷ The Accountability Works’ calculations included one half of IDEA special education funding since each law shares the mutual purpose of increasing reading and math skills. O’Marah, Klau, and Rebarber.

⁴⁸ O’Marah, Klau, and Rebarber.

⁴⁹ O’Marah, Klau, and Rebarber.

⁵⁰ Meave O’Marah and Theodor Rebarber, *Financial Impact of the No Child Left Behind Act On the State of New Hampshire & Review of the Cost Analysis of the NHSAA*, The Josiah Bartlett Center for Public Policy, February 2003.

⁵¹ American Legislative Exchange Council, *Myths and Facts on No Child Left Behind*, (available at www.alec.org).

⁵² Peyser and Costrell.

years, compared to President Clinton's increase of just \$2.6 billion in eight years.⁵³ Clearly, when compared to the Clinton Administration, President Bush and a Republican Congress have not shortchanged Title I education funding.

States are not Spending Available Federal Education Dollars

The Department of Education notes that the average state still has not spent nearly 12 percent of its 2002 appropriated state education funding, (of which the largest portions, the Title I funds, are provided to states through a formula that is primarily based on the estimated level of school age children in poor families).⁵⁴ For some states, roughly 20 percent of this funding remains unspent.⁵⁵ Utah, a state in which the state legislature has been very outspoken in its claim that the law is an unfunded mandate, still has not spent roughly 15 percent of its total federal education funding. Utah has also left unspent nearly 25 percent of its school-improvement programs funding.

In total, \$3.4 billion in 2002 appropriated dollars remains available for the states. Within this funding, \$1.3 billion is available for education for the disadvantaged; \$1.0 billion for school improvement programs; \$819 million for special education; and \$47 million for English language acquisition. What is particularly troubling about these unexpended dollars is that most education dollars that remain unspent for a period of time will revert back to the Treasury. In other words, if a state does not spend its allocation in a timely manner, it could permanently lose these dollars. In fact, at the end of FY03, \$155 million in discretionary and formula funding lapsed back to the Treasury.⁵⁶ Logically, it is difficult to complain about not receiving enough money to pay for certain requirements when readily available funds sit unused.

Conclusion

The No Child Left Behind Act is not an unfunded mandate, nor is it underfunded. An unfunded mandate is a technical term that is defined by the Unfunded Mandates Reform Act of 1995, designed to impede the practice of imposing excessive mandates on states and local governments that were insufficiently funded. According to the nonpartisan Congressional Budget Office, only three bills since 1997 have been enacted that meet the statutory definition of unfunded mandates. Nevertheless, Democrats continue to complain that appropriations for the new law have not equaled the authorization level – while neglecting to acknowledge that when they were in control of the White House and Congress, they “underfunded” the new education law in effect at the time by billions of dollars. Moreover, since the end of fiscal year 2001, President Bush and a Republican Congress have increased Title I spending by more than 52 percent. Finally, a number of competent studies conducted by nonpartisan entities have reached the same conclusion—the No Child Left Behind Act is sufficiently funded.

⁵³ This figure includes the appropriations for FY02-FY04 and assumes the full amount in the Senate FY05 Budget Resolution will be appropriated. *A History of Title I Increases* (chart), The Senate Health, Education, Labor, and Pensions Committee (Majority). S. Con. Res. 95, the Senate-passed FY05 budget resolution, assumes \$13.3 billion. This would be a \$1 billion increase (8.1 percent) over the FY04 level.

⁵⁴ Department of Education, Budget Service statistics on Unexpended Expended Obligations from March 19, 2004.

⁵⁵ New Hampshire, Virginia, Oklahoma, Nebraska.

⁵⁶ The Senate Health, Education, Labor, and Pensions Committee (Majority) statistics (*citing* FY03 Appropriation Monitoring Report, Grants Administration and Payment System). For perspective, under S. Con. Res. 95, the FY05 Senate Budget Resolution, \$155 million is equal to or greater than the total amount of FY05 Title I dollar allocations to 23 states and the District of Columbia.